



*A.I. Marine Adjusters, Inc.*

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March 3, 2008

**VIA CERTIFIED AND REGULAR MAIL**

Certified Mail No.: 70063450000146609575  
Green Dragon Trading Company  
c/o Mr. Joseph Dombrowski  
Dombrowski & Sorenson  
670 N. Clark  
Chicago, IL 60610

**Re: M/Y LE VIPER**

Insured: **Green Dragon Trading Company**  
Policy No.: **YM 583-93-22**  
Date of Loss: **November 18, 2007**  
Our Reference No.: **LE08965**

Dear Mr. Dombrowski:

Our office has been investigating the above claim pursuant to the Reservation of Rights issued on December 7, 2007. As part of our investigation we have, on several occasions, requested information from both you and your attorney, Mr. Weiss, as the representative of the insured. We have received responses to some of our requests for information, but many of the requests have still gone unanswered. Based on the information we have been provided thus far, we hereby advise you that New Hampshire denies coverage under Executive Yacht Policy No. YM 583-93-22 ("the Policy") for this claim for the reasons set forth below.

It is our understanding that on November 19, 2007, Captain Dan Osley, his son Sean, and two others were cruising on the M/Y Le Viper ("the vessel") about 500 yards from land, heading north toward Ft. Lauderdale, Florida. The engine room began taking on water. The US Coast Guard was called, and Towboat US also responded. The Coast Guard pump was not sufficient to cope with the ingress of water, and Towboat US ultimately used eight pumps to stem the flow of water. A flexible raw water hose had come adrift off of the starboard engine as the result of the failure of two hose clamps, and was reattached. The vessel was then towed up the New River to Rosciolli Marine. Costs associated with the salvage total \$24,051.00.

The Policy contains the following relevant provisions:

**10. CAUSES OF LOSS THAT ARE NOT COVERED:**

**B. We shall not cover any loss or damage arising out of:**

(1) Intentional Acts: Any intentional misuse or misconduct, criminal, willful or malicious act or lack of reasonable care or due diligence, in the operation or maintenance of your yacht, tender or trailer;

(2) Any wear and tear, gradual deterioration, weathering, inherent vice, insects, animals, vermin, fungus or mold, marine life, electrolytic or galvanic action, oxidation, warping or shrinkage, corrosion, dampness of atmosphere, gel coat or fiberglass blistering, wet or dry rot, or extremes of temperature;

Endorsement #5

Mechanical Breakdown Exclusion

It is agreed and understood that this policy does not cover any loss or damage to the yacht's engines, generators, outdrives and running gear (referred to herein as 'Propulsion Machinery') resulting directly or indirectly, in whole or in part, from any of the following causes of loss whether such causes directly or indirectly cause, contribute to or aggravate the loss; or occur before, at the same time or after the loss; or whether other causes act concurrently or in any sequence with the excluded cause:

- a) mechanical breakdown
- b) latent defect
- c) defect, weakness, inadequacy, fault or unsoundness in:
  - 1) design, specifications, workmanship, construction;
  - 2) materials used in construction or repair;
  - 3) or maintenance;

of any Propulsion Machinery.

However, we do insure for any resulting loss caused by items a - c unless the resulting loss is itself is excluded from coverage. All other terms and conditions still apply.

The marine surveyor who conducted an investigation following the loss, as well as the metallurgist who conducted a metallurgical analysis of the hose clamps, concur that the loss was caused by the failure of the hose clamps due to stress corrosion. The Policy specifically does not cover loss or damage arising out of "wear and tear, gradual deterioration, ... corrosion" (Sect. 10(B)(2)). The hose clamps failed due to their deteriorated and corroded condition, which is explicitly not covered under the Policy, and is not a fortuity which the Policy would have otherwise covered. Therefore, there is no coverage for this loss.

In addition, the failure to replace the deteriorated and corroded hose clamps indicates a lack of reasonable care and due diligence in the maintenance of the vessel, for which coverage is excluded pursuant to Section 10(B)(1). Any damage to the propulsion machinery in the engine room was directly caused by defects or inadequacy

of maintenance of the propulsion machinery, and is further excluded under the Mechanical Breakdown Exclusion.

Further, the faulty condition of the vessel at the time of the loss may be in breach of the implied warranty of seaworthiness that is part of the Policy, which would also void coverage for this loss.

In conclusion, there is no coverage for this loss under the Policy and New Hampshire is not responsible for any repair, salvage or other costs associated with this loss. For these reasons, this claim is hereby denied. Finally, as New Hampshire denies this claim, the insured will be responsible to pay the costs of the salvage. A copy of the invoice from TowBoat US is enclosed for your use in that regard. Please be advised that no past, present or future action of New Hampshire or its agents in investigating or considering these claims for coverage can or should be deemed as a waiver or modification of this Denial of Coverage, or of any policy terms, warranties and conditions and any rights it has under the applicable law, and, New Hampshire hereby reserves all of its rights under the Policy and the applicable law.

Very truly yours,



Susan Smith  
Regional Hull Manager  
Marine Claims Department

Enclosure

cc: David J. Weiss  
Parillo, Weiss & O'Halloran



# Invoice

Offshore Marine Towing, Inc  
 560 NE 26th Court  
 Pompano Beach, FL 33064  
 Ph. 954-783-7821 Fax. 954-783-9009  
[www.towboatusftlauderdale.com](http://www.towboatusftlauderdale.com)

Date	Invoice
12/13/2007	07-1891

Bill To:  
 M/Y Le Viper  
 Green Dragon Trading Company  
 C/O Dombrowski & Sorensen  
 670 North Clark Street  
 Chicago, IL 60610

Service Date	Service	Description	Qty	Rate	Amount
11/18/2007	Taking on Water/...	TowBoatUS # 1 response and return.	3	750.00	2,250.00
11/18/2007	Taking on Water/...	TowBoatUS # 2 response and return.	5	520.00	2,600.00
11/18/2007	Taking on Water/...	TowBoatUS # 4 response and return.	5.5	520.00	2,860.00
11/18/2007	Taking on Water/...	TowBoatUS # 5 response and return.	5	750.00	3,750.00
11/18/2007	Taking on Water/...	TowBoatUS # 7 response and return	3	520.00	1,560.00
11/18/2007	Salvage Master	Supervising Salvage Master	5	250.00	1,250.00
11/18/2007	Diver	Salvage Diver to inspect the vessel	2	200.00	400.00
11/18/2007	Pump Rental	2" gas dewatering pumps	2	160.00	320.00
11/18/2007	Pump Rental	8000 gph dewatering pumps	6	150.00	900.00
11/18/2007	Scuba Bottles		1	36.00	36.00
11/18/2007	Hooka Rig		1	200.00	200.00
11/18/2007	Crew	Night watchman to monitor the casualty	9	50.00	450.00
11/18/2007	Pump Rental	2" gas dewatering pump	1	150.00	150.00
11/18/2007	Pump Rental	8000 gph dewatering pump	2	160.00	320.00
11/18/2007	Towing	TowBoatUS # 5 and TowBoatUS # 9 towed the 87' Swiftship from Lauderdale Marina to Roscioli for haul out.	6	470.00	2,820.00
11/19/2007	Towing	TowBoatUS # 9	6	470.00	2,820.00
11/19/2007	Crew	Salvage Diver onboard the casualty for the duration of the tow to monitor the pumps.	6	200.00	1,200.00
11/18/2007	Nextel		6	10.00	60.00
11/18/2007	Administrative		1.5	70.00	105.00
<b>Total</b>					
\$24,051.00					

We Appreciate Your Business!